

NEW SECTION

**WAC 208-630-110 What definitions are required to understand these rules?** The definitions in RCW 31.45.010 and this section apply throughout this chapter unless the context clearly requires otherwise.

"Act" means chapter 31.45 RCW.

"Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is in common control with another person.

"Agent" for purposes of RCW 31.45.079 means a person who, pursuant to the terms of a written agreement and for compensation, performs small loan agent services on behalf of an exempt entity.

"Board director" means a director of a corporation or a person occupying a similar status and performing a similar function with respect to an organization, whether incorporated or unincorporated.

"Close of business" for the purposes of RCW 31.45.86 and these regulations means the actual time a licensee closes for business at the location from which a small loan was originated or 11:59 p.m. Pacific Time, whichever is earlier.

"Department" means the department of financial institutions.

"Exempt entity" means a person described in RCW 31.45.020 that is engaged in the business of making small loans.

"Investigation" means an examination undertaken for the purpose of detecting violations of chapter 31.45 RCW or these rules or obtaining information lawfully required under chapter 31.45 RCW or these rules.

"License" means a license issued by the director to engage in the business of check cashing or check selling under the provision of chapter 31.45 RCW.

"Monetary instrument" means a check, draft, money order or other commercial paper serving the same purpose.

"Payday advance lender" or "payday lender" means a licensee under this chapter who has obtained a small loan endorsement under RCW 31.45.073.

"Payday advance loan," "payday loan" or "deferred deposit loan" means the same as a small loan.

"Postdated check" means a check delivered prior to its date, generally payable at sight or on presentation on or after the day of its date. "Postdated check" does not include any promise or order made or submitted electronically by a borrower

to a licensee.

"RCW" means the *Revised Code of Washington*.

"Small loan agent services" means all or substantially all of the following services:

- (1) Marketing and advertising small loans;
- (2) Taking small loan applications;
- (3) Assisting customers in completing small loan documentation;
- (4) Providing required disclosures;
- (5) Disbursing small loan proceeds;
- (6) Collecting small loans;
- (7) Retaining documents and records; and
- (8) Making reports.

"State" means the state of Washington.

"Unsafe or unsound financial practice" means any action, or lack of action, the likely consequences of which, if continued, would impair materially the net worth of a licensee or create an abnormal risk of loss to its customers.

## LICENSING REQUIREMENTS

### NEW SECTION

**WAC 208-630-120 What does a business have to do to operate as a check casher and seller, or to make small loans as a payday lender?** In order to engage in the business of check cashing and selling, a business must apply and obtain from the department a check cashing or selling license. A check casher or seller must first obtain a small loan endorsement to its license to make small loans in accordance with chapter 31.45 RCW and this chapter.

NEW SECTION

**WAC 208-630-130 How does a business apply for a check casher's or seller's license or a small loan endorsement to a check casher's or seller's license?** Each applicant for a check casher license, or check seller license, or a small loan endorsement to a check casher's or seller's license must apply to the director by filing the following:

(1) An application in a form prescribed by the director including at least the following information:

(a) The legal name, residence, and business address of the applicant if the applicant is an individual or sole proprietorship, and in addition, if the applicant is a partnership, corporation, limited liability company, limited liability partnership, trust, company, or association, the name and address of every member, partner, officer, controlling person, and board director;

(b) The trade name or name under which the applicant will do business under the act;

(c) The street and mailing address of each location in which the applicant will engage in business under the act;

(d) The location at which the applicant's records will be kept; and

(e) Financial statements and any other pertinent information the director may require with respect to the applicant and its board directors, officers, trustees, members, or employees, including information regarding any civil litigation filed within the preceding ten years against the applicant or controlling person of the applicant;

(2) A surety bond and related power of attorney, or other security acceptable to the director in an amount equal to the penal sum of the required bond as set forth in this rule. In lieu of the bond, the applicant may demonstrate to the director net worth in excess of three times the amount of the penal sum of the required bond in accordance with RCW 31.45.030 (5)(b) and (e) and this rule;

(3) A current financial statement as of the most recent quarter end prepared in accordance with generally accepted accounting principles which includes a statement of assets and liabilities and a profit and loss statement;

(4) Information on the applicant's or any affiliate's current or previous small loan or related type business in this state or any other state, including, but not limited to, name, address, city, state, licensing authority, and whether any

enforcement action is pending or has been taken against the applicant in any state;

(5) Upon request, a complete set of fingerprints and a recent photograph of each sole proprietor, owner, director, officer, partner, member, and controlling person; and

(6) An application fee.

Any information in the application regarding a personal residential address or telephone number, and any trade secret as defined in RCW 19.108.010 including any financial statement that is a trade secret is exempt from the public disclosure requirements of chapter 42.17 RCW.

#### NEW SECTION

**WAC 208-630-140** Once a business finishes the application process, when does the director issue a license? If the director determines that all licensing criteria of chapter 31.45 RCW have been met and the appropriate fees paid, the director shall issue a nontransferable license for the applicant to engage in the business of cashing and/or selling checks or a small loan endorsement to a license.

#### NEW SECTION

**WAC 208-630-150** When does the license expire? The license and small loan endorsement will remain continuously in effect until surrendered, suspended, or revoked.

#### NEW SECTION

**WAC 208-630-160 Does each location where a licensee makes small loans have to have a small loan endorsement?** The law requires a small loan endorsement for each location where a licensee makes small loans. These locations include, in addition to traditional staffed locations, unstaffed locations at which electronic or telephonic terminals such as facsimile machines, telephones, computer terminals or similar devices are available to the public to provide access to small loans, whether or not the locations are located within the premises of an exempt entity.

#### NEW SECTION

**WAC 208-630-170 Where may a licensee make small loans?** A small loan endorsement may authorize a licensee to make small loans at a location other than the licensed location where it cashes and sells checks.

#### NEW SECTION

**WAC 208-630-180 Is there a bond requirement for licensees?** A licensee engaged in any business under chapter 31.45 RCW must obtain a bond. The bond must run to the benefit of the state and any person or persons who suffer loss. The licensee must file the bond with the director at the beginning of each calendar year. The bond must be issued by a surety which meets the requirements of chapter 48.28 RCW. The bond form must be acceptable to the director. The licensee may obtain a copy of an acceptable form from the department.

NEW SECTION

**WAC 208-630-190 What type of bond is necessary and what are the conditions?** The bond shall be continuous and conditioned upon the licensee faithfully abiding by chapter 31.45 RCW and all rules in this chapter. It shall also be conditioned upon the licensee paying all persons who purchase monetary instruments from the licensee the face value of any monetary instrument dishonored by the drawee financial institution due to insufficient funds or by reason of the account having been closed. The surety shall only be liable for the face value of the dishonored monetary instrument, and shall not be liable for any interest or consequential damages. For a licensee with a small loan endorsement, the bond shall run to the benefit of the state and any person or persons who suffer loss due to the licensee's violation of chapter 31.45 RCW or this chapter.

NEW SECTION

**WAC 208-630-200 How is a bond canceled?** The bond may be canceled by the surety by giving written notice to the director and licensee of its intent to cancel the bond. The cancellation is effective thirty days after the notice is received by the director.

NEW SECTION

**WAC 208-630-210 What is the liability of the surety under the bond?** Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety shall not be liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The surety shall not be liable for any liability of the licensee for tortious acts, whether or not such liability is imposed by statute or common law, or is imposed by contract. The bond shall not be a substitute or supplement to any liability or other insurance required by law or by contract. If the surety desires to make payment without awaiting court action against it, the penal sum of the bond shall be reduced to the extent of any payment made by the surety in good faith under the bond.

NEW SECTION

**WAC 208-630-220 Who may make claims against the bond?** Any person who is a purchaser of a monetary instrument from the licensee having a claim against the licensee for the dishonor of any monetary instrument by the drawee financial institution due to insufficient funds or by reason of the account having been closed, or any person who obtained a small loan from the licensee and was damaged by the licensee's violation of chapter 31.45 RCW or this chapter, may bring suit upon such bond or deposit in the superior court of the county in which the monetary instrument was purchased, or in the superior court of a county in which the licensee maintains a place of business. Jurisdiction shall be exclusively in the superior court. Any action must be brought not later than one year after the dishonor of the monetary instrument on which the claim is based. If the claims against a bond or deposit exceed the amount of the bond or deposit, each claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond, or deposit, without regard to the date of filing of any claim or action.

NEW SECTION

**WAC 208-630-230 What if there are claims against the bond?** The licensee must notify the department of any claim against the bond within ten days after receiving notice of a claim.

NEW SECTION

**WAC 208-630-240 What is the amount of bond needed for licensees engaging only in check selling?** The penal sum of the surety bond for a person with a check seller license shall not be less than the amount established in the following table:

Highest Monthly Liability*	Required Bond	Plus Percentage of Excess
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Up to \$50,000	Highest Monthly Liability or \$10,000, whichever is greater	\$0
\$50,001 to \$100,000	\$50,000	.5 above \$50,000
\$100,001 and above	\$75,000	.25 above \$100,000

\* The monthly liability is the total sum of checks for a given month. The "highest monthly liability" shall be determined by multiplying the highest monthly liability of checks from the preceding calendar year by seventy-five percent.

#### NEW SECTION

**WAC 208-630-250 What is the amount of bond needed if a licensee has a small loan endorsement?** The required penal sum of the bond for a small loan endorsement must be ten thousand dollars plus an additional one thousand dollars for each endorsed branch office beyond one branch.

#### NEW SECTION

**WAC 208-630-260 Does a licensee have any alternative to maintaining a surety bond?** In lieu of the surety bond required in this rule, an applicant or licensee may substitute one of the following alternatives with the approval of the director. Any alternative to the surety bond shall secure the same obligations as would the surety bond. The amount of alternative substituted under subsection (1) or (2) of this section must be equal to or greater than the amount of the required surety bond.

(1) **Time deposit.** An assignment in favor of the director of a certificate of deposit. The certificate of deposit must be issued by a financial institution in the state whose deposits or shares are insured by an agency of the government of the United States. The depositor is entitled to receive all interest and dividends on the certificate of deposit.

(2) **Demonstration of net worth.** A licensee or applicant for a small loan endorsement may demonstrate net worth in excess

of three times the amount of the required bond. The licensee shall notify the director within ten business days of any date upon which its net worth decreases below the required amount. A licensee that fails to maintain the required level of net worth and continues to operate under a small loan endorsement will be required to immediately obtain a surety bond and maintain it for five years after the date of noncompliance. During this five-year period, the director will not accept a demonstration of net worth in lieu of a surety bond.

(3) **Reports required.** A licensee that maintains net worth in lieu of a surety bond shall submit annually to the director an audited financial statement and within forty-five days after the close of each quarter a supplementary year-to-date financial statement prepared in accordance with generally accepted accounting principles. The financial statements must include at a minimum a statement of assets and liabilities and a profit and loss statement. The director may continue to require other documents, agreements or information necessary to properly evaluate and ensure that the licensee remains in compliance with this section.

(4) **Bad debts and judgments.** A licensee that maintains net worth in lieu of a surety bond may not consider bad debts and certain judgments as assets. The director may approve exceptions in writing. The licensee must charge off its books any debt upon which any payment is six months or more past due. The licensee may not count as an asset any judgment more than two years old which has not been paid. Time consumed by an appeal from a judgment is not counted in the two-year limit.

(5) **Noncompliance.** A licensee that does not comply with this section must obtain and file with the director a surety bond in the required amount in WAC 208-630-030 by the date specified by the director.

#### NEW SECTION

**WAC 208-630-270 When and under what circumstances may the director have access to the criminal history of an applicant or licensee, or controlling person?** (1) The director may review any criminal history record information maintained by any federal, state, or local law enforcement agency relating to:

(a) An applicant for a license or small loan endorsement under chapter 31.45 RCW; or

(b) A controlling person of an applicant for a license under chapter 31.45 RCW.

(2) The director may deny, suspend or revoke a license if

the applicant, licensee, or controlling person of the applicant or licensee fails to provide a complete set of fingerprints and a recent photograph on request.

(3) All criminal history record information received by the director is confidential information and is for exclusive use of the director and the division of consumer services. Except on court order or as provided by subsection (4) of this section, or otherwise provided by law, the information may not be released or otherwise disclosed to any other person or agency.

(4) The director may not provide a person being investigated under this section with a copy of the person's criminal history record obtained pursuant to subsection (1) of this section. This subsection does not prevent the director from disclosing to the person the dates and places of arrests, offenses, and dispositions contained in the criminal history records.

## **LICENSING FEES**

### **NEW SECTION**

**WAC 208-630-280 Does a licensee have to pay a fee for a license application?** At the time an applicant files for a license, the applicant must pay to the director a deposit fee for investigating and processing the application.

### **NEW SECTION**

**WAC 208-630-290 How much are the fees for various license applications, and when does a licensee pay them?** (1) The director shall collect a fee of sixty-nine dollars per employee hour expended for services, plus actual expenses, for review, investigation and processing of:

- (a) New license applications;
- (b) Small loan endorsement applications;
- (c) Additional locations;
- (d) Change of control;
- (e) Relocation of office;
- (f) Voluntary or involuntary liquidation of licensee.

(2) The director may require a lump sum payment in advance to cover the anticipated cost of review and investigation of the activities described in this section.

#### NEW SECTION

**WAC 208-630-300 What happens if a licensee pays a lump sum payment in advance, and there is a surplus or deficiency in the application deposit?** If the deposit required exceeds the actual amount derived in WAC 208-630-290(1), the amount in excess shall be refunded.

If the deposit fee does not cover the costs of investigation and processing, the applicant will pay for any additional cost, which will be itemized and billed by the director.

#### NEW SECTION

**WAC 208-630-310 Is the licensee's deposit fee refundable?** The deposit fee is not refundable if the application is denied or withdrawn, or if the license is issued. The director will apply the deposit fee to the actual cost of investigating and processing the application.

### **EXAMINATION AND INVESTIGATION**

#### NEW SECTION

**WAC 208-630-320 What examination authority does the director have?** The director determines the frequency of examinations for the purpose of determining compliance with chapter 31.45 RCW and these rules.

The director or designee may at any time examine the records and documents used in the business of any licensee or licensee's agent wherever located.

The director or designee may examine the records and documents of any person the director believes is engaging in unlicensed business governed by chapter 31.45 RCW wherever located.

#### NEW SECTION

**WAC 208-630-330 May the director accept other reports in lieu of an examination?** The director or designees may accept reports prepared by independent certified professionals or prepared by another state or the federal government in lieu of, in whole or in part, an examination performed by the director.

#### NEW SECTION

**WAC 208-630-340 What should a licensee expect the director to review during an examination?** In conducting examinations the director or designee may:

(1) Obtain access, during reasonable business hours, to the offices and places of business, books, accounts, papers, files, records, computers, safes and vaults of any person in possession of information relevant to the examination;

(2) Interview any person the director or designee believes has information relative to the examination, including, but not limited to, any party to the transaction;

(3) Obtain statements in writing by any person, under oath or otherwise, as to all facts and circumstances concerning the matters under examination;

(4) Require the production of copies of any items in subsection (1) of this section;

(5) Require assistance and cooperation, from any licensee or employee or agent of any licensee under examination with respect to the conduct and subject matter of the examination;

(6) Conduct meetings and exit review with owners, managers or employees of the licensee being examined;

(7) Require a response from the subject of the examination.

NEW SECTION

**WAC 208-630-350 Who pays for the costs of an examination?** Every licensee must pay to the director the actual cost of examining and supervising each licensed place of business at the examination hourly rate of sixty-nine dollars per person per hour expended, plus actual expenses, which for out-of-state exams includes, without limitation, travel, lodging and per diem expense.

NEW SECTION

**WAC 208-630-360 Whether a business has a license or not, what should the business know about an investigation?** The director or designee may conduct investigations at any time, in or outside of the state, to determine whether any person has violated or is about to violate chapter 31.45 RCW, these rules, or any order issued under these laws and rules. For that purpose the director or designee may conduct inquiries, interviews and examinations of any person relevant to the investigation.

NEW SECTION

**WAC 208-630-370 What powers does the director have during an investigation?** The director or designee may investigate the business of a licensee, or other business or personal financial records of any person subject to investigation. In conducting investigations, the director or designee may:

(1) Have access to any location where records of the subject of the investigation are located, including offices, places of business, commercial storage facilities, computers, safes and vaults for the purposes of obtaining, reviewing or copying books, accounts, papers, files, or records, including electronic records, or records in any format;

(2) Administer oaths and affirmations;

(3) Subpoena witnesses and compel their attendance at a time and place determined by the director or designee, and

compel their testimony regarding any matter related to an investigation or examination under chapter 31.45 RCW or these rules, including:

(a) Testimony regarding the existence, description, nature, custody, condition and location of any relevant evidence;

(b) The identity and location of persons having knowledge of any matter related to the investigation; and

(c) Any matter reasonably calculated to lead to the discovery of material evidence.

(4) Subpoena the production of any books, records in any format, documents or other tangible things, or physical or documentary evidence or matter;

(5) Conduct oral examination, under oath or otherwise, publicly or privately, of any controlling person, employee, agent or independent contractor of a licensee;

(6) Conduct oral examination, under oath or otherwise, publicly or privately, of any person whose testimony is deemed relevant to the investigation;

(7) Copy, or request to be copied, any items described in subsection (1) of this section, or if the director or designee determines that:

(a) There is danger that original records may be destroyed, altered, or removed denying the director access; or

(b) Original documents are necessary for the preparation of criminal referral or trial, the director may take possession of originals of any items described in subsection (1) of this section, regardless of the source of such items. Originals and/or copies taken by the director may be held, returned, or forwarded to other regulatory or law enforcement officials as determined necessary by the director or designee.

(8) Conduct analysis and review of any items described in subsection (1) of this section;

(9) Require assistance, as necessary, from any employee or person subject to investigation under this section with respect to the conduct and subject matter of the investigation;

(10) Conduct meetings and exit reviews with owners, managers, officers, or employees of any person subject to investigation or examination under this chapter;

(11) Conduct meetings and share information with other regulatory or law enforcement agencies; and

(12) Prepare and deliver, as deemed necessary, a report of investigation requiring a response from the recipient.

The director may investigate the business and records of any person who the director has reason to believe is engaging in business which requires a license under chapter 31.45 RCW.

#### NEW SECTION

**WAC 208-630-380 What are the fees for an investigation?**  
Unless the person investigated is not required to hold a license, the person must pay the cost of the investigation at the hourly rate of sixty-nine dollars per person per hour expended, plus actual expenses, which for out-of-state investigations includes, without limitation, travel, lodging and per diem expense.

#### NEW SECTION

**WAC 208-630-390 May the director hire other specialists to assist with examinations and investigations, and who will pay for them?** (1) The director may retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators, to conduct, or assist in the conduct of examinations, or investigations. Fees for services provided to the director by such professionals and specialists under this paragraph will be billed at such rates and in the manner described in WAC 208-630-350 and 208-630-380.

(2) The director may order the retention of such professionals and specialists as auditors, or investigators to conduct, or assist in the conduct of audits or investigations. Unless the director determines that the person investigated is not required to hold a license or otherwise should not bear the cost, the actual cost of these services will be borne by the person who is the subject of the audit, or investigation.

### **ASSESSMENTS AND REPORTING REQUIREMENTS**



NEW SECTION

**WAC 208-630-400 Once licensed, what fees must a licensee pay to keep a license current?** (1) The director will charge each licensee an annual assessment at the rate set forth in subsection (2) of this section. Assessments for a calendar year will be computed on total volume of transactions as of December 31 of the previous calendar year.

(2) The annual assessment rate is:

(a) For check cashers:

(i) If the volume of checks cashed is one million dollars or less, there is no annual assessment;

(ii) If the volume of checks cashed is over one million dollars, the annual assessment is five hundred thirteen dollars and ninety-five cents per licensed location.

(b) For check sellers:

(i) If the volume of checks sold is one million dollars or less, there is no annual assessment;

(ii) If the volume of checks sold is over one million dollars, the annual assessment is five hundred thirteen dollars and ninety-five cents per licensed location.

(c) For licensees with small loan endorsements, in addition to (a) and/or (b) of this subsection:

(i) If the volume of small loans made is one million dollars or less, there is no annual assessment;

(ii) If the volume of small loans made is over one million dollars, the annual assessment is five hundred thirteen dollars and ninety-five cents per licensed location.

(3) For purposes of this section, "volume" includes all transactions made under this chapter and chapter 31.45 RCW by a Washington licensed check casher or check seller at all licensed locations.

#### NEW SECTION

**WAC 208-630-410 What happens if a licensee is late with an annual assessment fee?** If a licensee does not pay its annual assessment fee by April 15, the director must send the licensee a notice of suspension and assess a late fee of twenty-five percent of the annual assessment fee. The licensee's payment of both the annual assessment fee and the late fee must arrive in the department's offices by 5:00 p.m. on the tenth day after the annual assessment fee due date, unless the department is not open for business on that date, then the licensee's payment of both the annual assessment fee and the late fee must arrive in the department's offices by 5:00 p.m. on the next day the department is open for business. If the payment of both the annual assessment fee and the late fee does not arrive prior to such time and date, the expiration of the licensee's license is effective at 5:00 p.m. on the thirtieth day after the assessment fee due date.

#### NEW SECTION

**WAC 208-630-420 How can a license be reinstated after it expires?** The director may reinstate the license if, within twenty days after the effective date of expiration, the licensee:

(1) Pays both the annual assessment fee and the late fee; and

(2) Attests under penalty of perjury that it did not engage in conduct requiring a license under this chapter during the period its license was expired. The director may confirm the licensee's attestation by an investigation.

#### NEW SECTION

**WAC 208-630-430 When may a licensee expect a fee increase?**

The department intends to increase its fee and assessment rates each year for several bienniums. The department intends to initiate a rule making for this purpose each biennium. This rule provides for an automatic annual increase in the rate of fees and assessments each fiscal year during the 2005-2007 biennium.

(1) On July 1, 2005, the fee and assessment rates as increased in the prior fiscal year, will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025. However, there will be no rate increase under this subsection (1) for assessments described in WAC 208-630-022 (2)(a)(i), (b)(i) and (c)(i).

(2) The director may round off a rate increase under subsection (1) of this section. However, no rate increase may exceed the applicable fiscal growth factor.

#### NEW SECTION

**WAC 208-630-440 How will a licensee know about fee increases?** By June 1 of each year, the director will make available a chart of the new rates that will take effect on the immediately following July 1.

#### NEW SECTION

**WAC 208-630-450 When may the director waive fees?** The director may waive any or all of the fees and assessments imposed, in whole or in part, when he or she determines that both of the following factors are present:

(1) The consumer services program fund exceeds the projected acceptable minimum fund balance level approved by the office of financial management; and

(2) That such course of action would be fiscally prudent.

## NEW SECTION

**WAC 208-630-460 When must a licensee inform the director of significant changes in business?** A licensee must notify the director in writing within fifteen days of the occurrence of any of the following significant developments:

- (1) Licensee filing for bankruptcy or reorganization.
- (2) Notification of the initiation of license revocation procedures in any state against the licensee.
- (3) The filing of criminal charges or a criminal indictment or information, in any way related to check cashing, check selling or small loan activities of the licensee, key officer, board director, or controlling person, including, but not limited to, the handling and/or reporting of moneys received and/or instruments sold.
- (4) A licensee, sole proprietor, owner, director, officer, partner, member or controlling person being convicted of a crime.
- (5) A change of control. In the case of a corporation, control is defined as a change of ownership by a person or group acting in concert to acquire ten percent of the stock, or the ability of a person or group acting in concert to elect a majority of the board directors or otherwise effect a change in policy of the corporation. The director may require such information as deemed necessary to determine whether a new application is required. In the case of entities other than corporations, change in control shall mean any change in controlling persons of the organization either active or passive. Change of control investigation fees shall be billed to the persons or group at the rate billed for applications.

## **REQUIREMENTS FOR CHECK CASHING AND MAKING SMALL LOANS (PAYDAY LENDING)**

#### NEW SECTION

**WAC 208-630-470 What types of information must a licensee include on a borrower's application for a small loan?** The licensee must require and maintain an application for each borrower in each small loan transaction. Each application must contain the borrower's full name, Social Security number or other unique identifier acceptable to the director, current address, loan origination date, and whether the applicant is a military borrower at any time prior to the termination date of the loan. As used in this section "other unique identifier" means a state identification card, a passport, a document issued by the Immigration and Naturalization Service of the United States that provides identification of the borrower, a matricula consular, a driver's license, or other forms as approved by the director.

Licensees may rely upon an applicant representation regarding the applicant's military status, and are not required to conduct an independent investigation regarding military status.

#### NEW SECTION

**WAC 208-630-480 How must a licensee maintain customer small loan applications?** The licensee may maintain a single master application in paper or electronic form that the licensee updates each time a customer takes out a new loan.

#### NEW SECTION

**WAC 208-630-490 What information must the note or small loan agreement contain?** Each small loan made under a small loan endorsement pursuant to chapter 31.45 RCW must be evidenced by a written note or loan agreement which must contain at least the following:

- (1) The origination date of the loan;
- (2) The principal of the loan;
- (3) The manner in which the loan is to be repaid, including

a statement of whether any check held in connection with a small loan may be redeemed in cash and if so, a statement of the date and time after which the licensee may choose not to permit redemption;

(4) The termination date of the loan;

(5) The dollar amount of fees and the method of calculating fees;

(6) The annual percentage rate as defined in the federal Truth in Lending Act; and

(7) The signature or electronic signature of the borrower.

#### NEW SECTION

**WAC 208-630-500 When must a licensee provide a note or small loan agreement to the borrower?** A licensee must provide a copy of the note or loan agreement (or if in electronic form, make available) to the borrower at the time the borrower executes the note or loan agreement.

#### NEW SECTION

**WAC 208-630-510 When does a borrower have a right to enter into a statutory payment plan?** A borrower has a right to convert a small loan to a statutory payment plan after four successive loans and prior to default on the last loan.

#### NEW SECTION

**WAC 208-630-520 If a borrower and licensee enter into a statutory payment plan, what is the term of the payment plan?** A payment plan under the provisions of RCW 31.45.084 must be for a period of at least sixty days unless a shorter period is agreed to by both the borrower and the licensee.

NEW SECTION

**WAC 208-630-530** If a borrower and licensee enter into a statutory payment plan, how must the payments be structured? A payment plan under the provisions of RCW 31.45.084 must provide for at least three separate payments which, unless otherwise requested by the borrower and agreed to in writing by the lender, shall be:

(1) Equal to the total amount of the payment plan divided by the number of payments (subject to reasonable rounding); and

(2) Due at substantially equivalent intervals. For example, a sixty-day, three hundred fifty dollar payment plan entered into on May 1 providing for payments of one hundred twenty dollars on May 20, one hundred twenty dollars on June 11, and one hundred ten dollars on June 29, complies with this rule.

NEW SECTION

**WAC 208-630-540** Must a licensee comply with the federal Truth in Lending Act when entering into a payment plan? An agreement to enter into a payment plan under the provisions of RCW 31.45.084 must comply with the federal Truth in Lending Act, 15 U.S.C. Sec. 1601.

NEW SECTION

**WAC 208-630-550** May the licensee and the borrower enter into a payment plan prior to the fourth consecutive loan? A licensee is not prohibited from entering into a payment plan with a borrower at any time prior to the time a borrower's right to a statutory payment plan is triggered under RCW 31.45.084. Any payment plan other than a statutory payment plan may be on any terms on which a licensee and borrower may agree.

#### NEW SECTION

**WAC 208-630-560 What types of disclosures must a licensee make to a borrower?** (1) A licensee must deliver to the borrower at the time the licensee makes a small loan, a disclosure that meets the requirements of all applicable laws, including the federal Truth in Lending Act.

(2) A licensee must deliver to the borrower at the time the licensee makes the small loan a disclosure of the right to rescind the loan and the right to convert the loan to a payment plan.

#### NEW SECTION

**WAC 208-630-570 What must be included in the disclosures?** The disclosure referred to in WAC 208-630-560(2) must be substantially in the following form:

**Your right to a payment plan.**

If this is your fourth (or greater) successive loan, and if you are not in default, you may convert your loan to a payment plan with us. "Successive loans" means loans made to you by us with no more than three business days between the repayment in full of one loan and the beginning date of the next loan.

**A payment plan will allow you,** by paying a one time fee equal to the finance charge on your loan, to pay all that you owe in at least three payments over a period of at least sixty days.

**Your right to rescind (cancel) this loan. You have the right to rescind (cancel) this loan** by returning the amount of the loan in cash, or returning the check given to you by us to our office by the close of business on our next business day following the date of this loan. We may not charge you for canceling the loan and we will return to you any postdated check or electronic equivalent you have given to us.



NEW SECTION

**WAC 208-630-580 In addition to providing disclosures to the borrower, does a licensee have to post any disclosures?** Licensees that make small loans must post at each location where small loans are made a conspicuous notice substantially in the form set forth in the preceding question.

NEW SECTION

**WAC 208-630-590 How must a licensee format disclosures?** All disclosures must be presented in a manner and physical format that is clear, conspicuous and designed to call attention to each right and responsibility of the borrower and lender being disclosed. Such statements may be provided separately or included within the note or loan agreement.

NEW SECTION

**WAC 208-630-600 What documentation must a licensee keep to show that the licensee has made the proper disclosures?** A licensee must maintain in its files sufficient information to show compliance with the consumer disclosure requirements of chapter 31.45 RCW, these rules, and state and federal law.

NEW SECTION

**WAC 208-630-610 Are there accounting and financial records that a licensee must keep?** Licensees must maintain as a minimum the following records for at least two years.

(1) A licensee must maintain a record of transactions conducted. Such a record may be limited to the following provided a sufficient audit trail is available through records obtainable from the licensee's bank of account:

- (a) Amount of the checks cashed;
- (b) Amount of fees charged for cashing the check;
- (c) Amount of cash deducted from the transaction for the sales of other services or products;
- (d) Amount of each check or monetary instrument sold;
- (e) Amount of fee charged for the monetary instrument;
- (f) Amount of small loan proceeds disbursed;
- (g) Fees charged for small loans;
- (h) Amount of payments on small loans received;
- (i) Origination date of each small loan;
- (j) Termination date of each small loan;
- (k) Payment plan payment due dates;
- (l) The information required to be maintained for applications in the rule.
- (2) Licensees must maintain a cash reconciliation summarizing each day's activity and reconciling cash on hand at the opening of business to cash on hand at the close of business. Such reconciliation must separately reflect cash received from the sale of checks, redemption of returned items, bank cash withdrawals, cash disbursed in cashing of checks, cash disbursed in making small loans, cash received in payment of small loans and bank cash deposits.
- (3) Records of the disbursement of loan proceeds and the receipt of all payments on the balance of small loans must be kept and must indicate the date of the transaction, the borrower's name, amount, and whether the disbursement or payment is on a loan or payment plan.

#### NEW SECTION

**WAC 208-630-620 In what form must a licensee maintain accounting and financial records?** Licensees may maintain records required in combined form, hand or machine posted, or automated, and licensees may maintain them on any electronic, magnetic, optical or other storage media. However the licensee must maintain the necessary technology to permit access to the records by the department for the period required by law.

NEW SECTION

**WAC 208-630-630 May the director ask a licensee for records regarding the previous day's transactions?** Upon request of the director or director's designee a licensee must within one business day make available, either directly or through a third party, a record of the previous day's transactions.

NEW SECTION

**WAC 208-630-640 What specific accounting records must a licensee maintain?** Licensees must maintain a general ledger containing records of all assets, liabilities, capital, income, and expenses. The licensee must post a general ledger from the daily record of checks cashed or other record of original entry, at least monthly, and it must be maintained in such manner as to facilitate the preparation of an accurate trial balance of accounts in accordance with generally accepted accounting practices.

NEW SECTION

**WAC 208-630-650 May a licensee maintain a consolidated general ledger if the licensee has two or more locations?** A licensee may maintain a consolidated general ledger reflecting activity at two or more locations by the same licensee provided that the licensee maintain books of original entry separately for each location.

NEW SECTION

**WAC 208-630-660 What must a licensee have in employees' personnel files?** Every licensee must maintain personnel files for its employees. Each file must contain the employee's full name, date of birth, date of hire and date of termination, last known address and Social Security number.

NEW SECTION

**WAC 208-630-670 For licensees with small loan endorsements what information must the licensee keep in every loan file?** For licensees with small loan endorsements, each loan file must contain at least a copy of the application, a copy of the note or loan agreement and a copy of any disclosure statement. As used in this section, "application" means any information received by the licensee from the borrower for the purposes of making a lending decision, including, but not limited to, personal employment history and credit history.

NEW SECTION

**WAC 208-630-680 Are there specific banking requirements for check sellers?** All monetary instruments issued by check sellers must be drawn on a financial institution domiciled in the United States.

NEW SECTION

**WAC 208-630-690 When must a check casher deposit a monetary instrument?** Once a licensee cashes a monetary instrument the licensee must send the monetary instrument for deposit to the licensee's account at a depository financial institution located in Washington state or send it for collection not later than the close of business on the third business day after the day on which the licensee accepted the monetary instrument for cash. This subsection does not apply if the licensee accepted the monetary instrument as part of a small loan transaction under chapter 31.45 RCW.

NEW SECTION

**WAC 208-630-700 When may a licensee deposit a monetary instrument accepted in the course of making a small loan?** A licensee with a small loan endorsement may not deposit a monetary instrument accepted in the course of making a small loan under the act prior to the termination date and any time disclosed on the note or small loan agreement.

NEW SECTION

**WAC 208-630-710 What other federal and state laws and regulations must a licensee comply with?** Each licensee must comply with applicable federal and state laws including, but not limited to, the following:

- (1) Chapter 63.29 RCW, the Uniform Unclaimed Property Act;  
and
- (2) The federal Truth in Lending Act.

NEW SECTION

**WAC 208-630-720 Is a licensee required to register with the Secretary of the Treasury?** Each licensee must register with the Secretary of the Treasury of the United States if required by 31 U.S.C. Section 5330 or any regulations promulgated thereunder.

NEW SECTION

**WAC 208-630-730 What records and actions does a licensee need to take to assure the licensee is correctly reporting under the Bank Secrecy Act?** Each licensee shall maintain detailed records to satisfy currency transaction reporting and suspicious activity reporting requirements of the United States Treasury Department.

Each licensee shall implement an antimoney laundering program that includes the development of internal policies, procedures and controls, training of employees, the appointment of a compliance officer, and the appointment of an external reviewer of the antimoney laundering program if required by 31 U.S.C. Section 5318(h).

NEW SECTION

**WAC 208-630-740 What obligation does a licensee have to assure that employees comply with the laws and rules regarding payday lending and check cashing and selling?** Each licensee shall ensure that any employee or person who engages in business on behalf of the licensee under authority granted by chapter 31.45 RCW has sufficient understanding of the statutes and rules applicable to its business to assure compliance with such statutes and rules.

NEW SECTION

**WAC 208-630-750 What fees may licensees charge to collect a delinquent small loan?** A licensee when collecting a delinquent small loan may:

(1) Agree with the borrower for the payment of fees for a credit report received from a recognized credit reporting company when the licensee pays these fees to an unaffiliated third party for services. In no event may the fee exceed the actual cost charged by the provider of the credit report.

(2) Charge or collect a fee equal to or less than twenty-five dollars for a check returned unpaid by the bank drawn upon. Only one fee may be collected with respect to a particular check even if it has been redeposited and returned more than once.

NEW SECTION

**WAC 208-630-760 What are the legal restrictions on making small loans?** A licensee with a small loan endorsement is subject to various restrictions.

NEW SECTION

**WAC 208-630-770 May a licensee allow a borrower to refinance or "rollover" a small loan with another small loan?** A licensee may not allow a borrower to use a new small loan to pay off an existing small loan by the same lender or an affiliate of the lender. Licensees may not apply the proceeds from any small loan to any other loan from the same lender or affiliate of the lender.

NEW SECTION

**WAC 208-630-780 May a licensee use a name or place of business other than that named on the license or small loan endorsement?** A licensee may not make any loan under authority granted by chapter 31.45 RCW under any name or at any place of business other than that named on the license and small loan endorsement.

NEW SECTION

**WAC 208-630-790 What is the limit on the amount of checks a licensee may hold from one borrower?** A licensee may not hold a check or checks in an aggregate face amount of more than seven hundred dollars plus allowable fees from any one borrower at any one time.

NEW SECTION

**WAC 208-630-800 May a licensee holding a borrower's check for a period longer than the statutory limit of forty-five days charge additional fees?** A licensee may hold a check for more than forty-five days if requested to do so by the borrower. The licensee may not charge additional fees for holding the check.

NEW SECTION

**WAC 208-630-810 May a licensee charge additional fees to cash monetary instruments issued as part of a small loan?** The licensee may not charge an additional fee to cash a monetary instrument issued as part of a small loan made under chapter 31.45 RCW.



NEW SECTION

**WAC 208-630-820 May a licensee charge any fees if a borrower decides to convert their loan to a payment plan?** A licensee may not charge any fee or impose any other burden upon the decision of a borrower to convert their small loan to a payment plan as provided under RCW 31.45.084, other than the terms and conditions expressly authorized by RCW 31.45.084.

NEW SECTION

**WAC 208-630-830 What are a licensee's annual financial and reporting requirements?** Each licensee must submit the reports of its Washington activities described in this section, on a form prescribed and made available by the director, due not later than one hundred five days after the close of the calendar year (or fiscal year if a licensee has established a fiscal year different from the calendar year). Licensees must make each report for the prior calendar year or fiscal year, which shall be referred to in these rules as the "period." A consolidated annual report must contain:

(1) The total number of employees and annual payroll during the period;

(2) The total number and dollar volume of transactions during the period;

(3) The total dollar amount of fees collected during the period;

(4) The total number and dollar amount of undeposited checks taken or held in connection with check cashing and small loan endorsement business at the end of the period;

(5) The total number and dollar amount of returned (NSF) checks taken or held in connection with check cashing and small loan business at the end of the period, and the total dollar amount of fees collected for returned (NSF) checks during the period;

(6) The total number and dollar amount of charge-offs (losses), net of any recoveries, for the period;

(7) The total dollar amount of net income before and after taxes earned under authority of this chapter.

NEW SECTION

**WAC 208-630-840 Who may a licensee hire to prepare the financial statements in the annual report?** Financial statements contained in the annual report may be prepared by outside accountants or by the licensee's own accountants.

NEW SECTION

**WAC 208-630-850 What information must a licensee have in the annual assessment report?** An annual assessment report must contain:

- (1) The total dollar volume of checks cashed during the period, if applicable; and
- (2) The total dollar volume of checks sold during the period, if applicable.

NEW SECTION

**WAC 208-630-860 If licensee has a small loan endorsement, what other reports must be filed?** For all licensees with small loan endorsements a report containing the following:

- (1) The total dollar volume of small loans made during the period, including payment plan loans;
- (2) The total number of loans made for the period;
- (3) The total number of borrowers for the period;
- (4) The number of borrowers whose accounts were referred to collection agencies;
- (5) The number of loans rescinded during the period;
- (6) The number of borrowers entering into a payment plan;
- (7) The number of loans made to borrowers to be paid through an ACH (automated clearing house) or other electronic transaction;
- (8) The number of loans made to borrowers through other than a physical visit to the licensee's location (e.g., internet, telephone, etc.); and
- (9) The number of active military borrowers during the period.

#### NEW SECTION

**WAC 208-630-870** If a licensee has a loan volume of at least ten million dollars in principal in the year prior, what additional reports must the licensee file with the director? For licensees with small loan endorsements and total loan volume of at least ten million dollars in principal in the one year period just prior to the period under report, a report containing the following in a form prescribed by the director:

- (1) The number of loans per borrower for the period;
- (2) The number of loans per military borrower during the period; and
- (3) The number of loans with terms in each of the following categories for the period:
  - (a) One to seven days;
  - (b) Eight to fourteen days;
  - (c) Fifteen to Twenty-one days;
  - (d) Twenty-two to thirty-one days; and
  - (e) Thirty-two or more days.

#### NEW SECTION

**WAC 208-630-880** What must a check seller report when surrendering or revoking a license? A licensee engaged in the business of selling monetary instruments whose license has been surrendered or revoked shall submit to the director, at its own expense, on or before one hundred five days after the effective date of such surrender or revocation, a closing annual report containing audited financial statements as of such effective date. This closing annual report shall cover the twelve months ending with such closure date or for such other period as the director may specify. If the report, certificate, or opinion of the independent accountant is in any way qualified, the director may require the licensee to take such action as appropriate to permit an independent accountant to remove such qualification from the report, certificate, or opinion. Such report shall include relevant information specified by the director.

#### NEW SECTION

**WAC 208-630-890 What must a licensee, other than a check seller, report when surrendering or revoking a license?** A licensee not engaged in the business of selling monetary instruments whose license has been surrendered or revoked shall submit to the director at its own expense, on or before one hundred five days after the effective date of such surrender or revocation, a closing annual report covering the twelve months ending with such closure date or for such other period as the director may specify. Financial statements contained in this closing report may be prepared by outside accountants or by the licensee's own accountants.

#### NEW SECTION

**WAC 208-630-900 What additional information must a licensee include with annual reports and financial statements?** The reports and financial statements in the consolidated annual report, the report for all licensees with small loan endorsements, and the report for licensees with small loan endorsements over ten million dollars in principal in the one year prior to the reporting period must include at least a balance sheet and a statement of income together with such other relevant information as the director may require, prepared in accordance with general accepted accounting principles. The reports and financial statements in the report for licensees with small loan endorsements over ten million dollars in the one year prior to the reporting period must be accompanied by a report, certificate, or opinion of an independent certified public accountant or independent public accountant. The audits shall be conducted in accordance with generally accepted auditing standards.

NEW SECTION

**WAC 208-630-910 May a licensee request an extension of time to comply with reporting requirements?** For good cause and upon written request, the director may extend the time for compliance with reporting requirements.

NEW SECTION

**WAC 208-630-920 Under what circumstances would a licensee submit unaudited financial statements to the director?** A licensee shall, when requested by the director, for good cause, submit its unaudited financial statement, prepared in accordance with generally accepted accounting principles and consisting of at least a balance sheet and statement of income as of the date and for the period specified by the director.

NEW SECTION

**WAC 208-630-930 When may the director reject financial statements and other reports submitted to the director by the licensee?** The director may reject any financial statement, report, certificate, or opinion filed pursuant to this section. The director must notify the licensee or other person required to make such filing of its rejection and the cause thereof.

NEW SECTION

**WAC 208-630-940 How much time does a licensee have to correct the deficiency in financial statements or other reports?** Within thirty days after the receipt of such notice, the licensee or other person shall correct such deficiency. The director shall retain a copy of all filings so rejected.

## NEW SECTION

**WAC 208-630-950 What are the trust accounting requirements that a licensee must comply with?** (1) At least monthly a licensee in the business of selling checks shall withdraw from the trust account an amount equal to fees earned for the corresponding period from the sale of monetary instruments. The remaining balance of the trust account must be sufficient to cover all monetary instruments that remain outstanding and drawn against the trust account.

(2) A licensee is prohibited from allowing the bank of account to charge back checks or drafts deposited to the trust account and subsequently dishonored against said trust account.

(3) A licensee, whose license has been suspended, terminated, or not renewed, shall not make withdrawals from the trust account without the director's consent, until a closing report has been received according to these rules.

## REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 208-630-005	Definitions.
WAC 208-630-010	Application deposit fee.
WAC 208-630-015	Examinations.
WAC 208-630-020	Schedule of fees paid by licensees and applicants.
WAC 208-630-021	Application review and investigation fee.
WAC 208-630-022	Annual assessment charge.
WAC 208-630-023	Examination fees.
WAC 208-630-02303	Fee increase.
WAC 208-630-02305	Waiver of fees.
WAC 208-630-025	Application for small loan endorsement to a check casher or check seller license.
WAC 208-630-030	Surety bond.
WAC 208-630-035	Alternatives to the surety bond.
WAC 208-630-040	Access to criminal history information.
WAC 208-630-050	Issuance of license or small loan

	endorsement.
WAC 208-630-060	Disclosure of significant developments.
WAC 208-630-065	The note.
WAC 208-630-068	Contents of disclosure statement to borrower.
WAC 208-630-070	Accounting and financial records.
WAC 208-630-075	Monetary instruments--Deposit requirements.
WAC 208-630-080	Licensees are required to comply with federal and state laws including but not limited to the following.
WAC 208-630-085	Licensee with small loan endorsement--Powers--Restrictions.
WAC 208-630-090	Audit report by licensee--Financial statements.
WAC 208-630-095	Knowledge of the law and regulations.
WAC 208-630-100	Trust accounts--Limitations and prohibitions.